

**UNITED NATIONS DISABILITIES CONVENTION**  
**FREQUENTLY ASKED QUESTIONS**  
**United States Department of State    October 9, 2009**

**WHAT IS THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (“Convention”)?**

The Convention is an international treaty that sets out the obligations of States Parties to the Convention to promote, protect, fulfill, and ensure the human rights of persons with disabilities. The United Nations General Assembly adopted the Convention on December 13, 2006, and it was opened for signature on March 30, 2007. The Convention entered into force for States Parties on May 3, 2008. On July 30, 2009, the United States signed the Convention, joining the 141 countries that had already signed the instrument. As of October 7, 2009, 70 States ratified the treaty and 143 States signed it.

**WHAT DOES THE CONVENTION SEEK TO ACHIEVE?**

The Convention is the first new human rights convention of the 21<sup>st</sup> century. The Convention complements existing international human rights treaties, several of which have already been ratified by the United States, including the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Racial Discrimination. The goal of the Convention is to promote, protect and ensure the full and equal enjoyment of all human rights by persons with disabilities. The Convention specifies how internationally recognized human rights are to be interpreted and applied to prevent discrimination against such persons, and clarifies the obligations and legal duties of States Parties with regard to those rights.

Overarching principles of the Convention include respect for dignity and individual autonomy, equality of opportunity and non-discrimination, and inclusion of persons with disabilities (Article 3). Importantly, equality of treatment and non-discrimination are the primary principles permeating the entire treaty.

The Convention’s provisions cover a number of key areas such as:

- Equality and non-discrimination
- Participation in political life and access to justice
- Freedom from torture and cruel, inhuman and degrading treatment
- Accessibility, personal mobility, and reasonable accommodation
- Health
- Education
- Employment
- Rehabilitation

At its core, the Convention seeks to ensure that persons with disabilities enjoy the same rights as everyone else and are able to lead their lives as do other individuals, if given the same opportunities.

The United States has always been a world leader in ensuring the rights of individuals with disabilities, through legislation and enforcement measures. The United States has made great progress toward the goals of inclusion, equal opportunity, full participation, independent living, and economic self-sufficiency. By becoming a party to the Convention, the United States will continue its leadership role. And by ratifying and implementing the Convention, the United States is in a position to support, assist, and encourage other States to ratify *and implement* the Convention, contributing to verifiable improvements in foreign countries in guaranteeing to persons with disabilities equality of opportunity, non-discrimination, accessibility, and reasonable accommodation. This benefits the 650,000,000 people in the world who have a disability, including the vast number of Americans with disabilities who travel and reside abroad. Ultimately, it will be persons with disabilities, both inside and outside the United States, who will benefit from the global acceptance and implementation of this UN Convention.

**WHAT IS THE PROCESS FOR RATIFYING THE CONVENTION?**

As the United States signed the Convention on July 30, 2009, the Executive Branch next prepares a treaty transmittal package, whereby the President transmits the Convention to the Senate for its advice and consent to ratification. When transmitted to the Senate, the Convention is accompanied by a Presidential message, the text of the treaty, and a letter of submittal which may contain a detailed Article by Article analysis of the Convention. The Convention is referred by the Senate to the Senate Committee on Foreign Relations. The Committee may, at its discretion, hold a hearing and ultimately consider the Convention at a business meeting, at which point it may report the treaty out to the full Senate with a favorable recommendation. Once the Convention is reported out to the Senate and the Committee report is filed, the Convention is added to the Senate’s Executive Calendar, and the Majority Leader can make a motion to proceed with the Convention for full Senate consideration. If the Convention is

approved by a 2/3 majority of the Senators present, the Convention is returned to the President, who may then sign the instrument of ratification.

The final step is for the President to sign the instrument of ratification, which is then deposited with the United Nations as the treaty depositary. The treaty will enter into force for the United States 30 days after deposit of its instrument of ratification.

### **WHAT WILL THE CONVENTION REQUIRE OF THE UNITED STATES?**

Once the Convention enters into force for the United States, the United States will be required to implement the obligations imposed by the Convention. The Convention contains 33 substantive articles prescribing for States Parties in some detail how internationally recognized civil, political, economic, social and cultural rights are to be interpreted and applied to prevent discrimination against persons with disabilities. By requiring States to give effect to their obligations by “appropriate measures” or by “all appropriate measures”, the Convention adopts a broad and flexible approach to implementation that allows for the legal particularities of each State Party to be taken into account. The Convention describes (but does not define) persons with disabilities (Article 1), and defines discrimination and reasonable accommodation (Article 2); requires States Parties to take measures to ensure the protection and enjoyment of civil, political, and economic, social, and cultural (ESC) rights by persons with disabilities on an equal basis with others (ESC rights to be “progressively realized”); and establishes a Committee on the Rights of Persons with Disabilities (Committee) to consider initial and periodic State Party reports on the measures they have undertaken to implement the Convention.

### **WILL THE CONVENTION REQUIRE CHANGES TO UNITED STATES LAW?**

Most provisions of the Convention, which seeks to eliminate discrimination against persons with disabilities, are consistent with current U.S. federal legislation, which contains a vast and effective array of provisions and programs to fight discrimination against persons with disabilities. These laws include the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, as amended, and the Individuals with Disabilities Education Act, among other laws. The United States may choose to ratify the treaty subject to Reservations, Understandings, or Declarations (RUDs). A Reservation made by a State Party excludes or modifies the legal effect of certain treaty provisions in their application to that State Party. A typical Understanding explains how a State Party interprets a particular provision of a treaty. Where United States law diverges from a treaty obligation, the United States may decide to take a Reservation with respect to the relevant treaty provision. Thus, subject to appropriate reservations, treaty ratification would *not* require changes to United States law.

### **WILL THE CONVENTION HAVE AN EFFECT ON THE LAWS OF THE 50 STATES AND THE DISTRICT OF COLUMBIA?**

Many human rights treaties deal with subjects governed principally by state law in the United States. This Convention is different, however, as the rights and protections of persons with disabilities have largely been federalized. The United States has a broad array of federal laws, programs, and benefits designed to advance the human rights of, and eliminate discrimination against, persons with disabilities. These statutes regulate the conduct of the federal government, state and local governments, employers with 15 or more employees, places of public accommodation, and public transport, among others.

Notwithstanding the broad array of federal legislation protecting the rights of persons with disabilities, certain treaty provisions would be implemented largely by state law, including Article 12 on civil capacity, Article 14 on detention and civil commitment, and Article 23 on marriage and family relationships. To the extent that it is not clear that the laws of the 50 states and the District of Columbia are consistent with the Convention’s obligations, any gaps may be addressed by a taking a reservation to the relevant treaty provision.

### **IF THE UNITED STATES RATIFIES THE CONVENTION, WHO OR WHAT WOULD OVERSEE OR ENFORCE THE TREATY?**

Articles 31 through 40 of the Convention set out arrangements for monitoring of the Convention on both the national and international levels. At the national level, a State party must designate “one or more focal points within government for matters relating to the implementation of the present Convention.” The State Party may also, if it wishes, designate a coordination mechanism within the government to facilitate related actions under the treaty.

In addition, like other human rights treaties which the United States has ratified, the Disabilities Convention establishes an international treaty monitoring body, called the Disabilities Committee, which receives and reviews initial and periodic Reports from States Parties on how that State Party has implemented its obligations

under the Convention. The Committee issues Conclusions and Recommendations with regard to the Report, which typically recommend concrete steps that the State Party can take to improve treaty implementation. These Conclusions and Recommendations, as the names suggest, are recommendations and are *not* binding on the State Party. Similarly, General Comments issued by the Committee to aid in interpretation of the treaty provide guidance but are not binding on States Parties. In short, the United States would look to its domestic laws and domestic federal agencies to ensure treaty compliance.